

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

ELLIS THOMAS,

Petitioner,

v.

WARDEN,

Respondent.

CAUSE NO. 3:20-CV-1009-JD-MGG

OPINION AND ORDER

Ellis Thomas, a prisoner without a lawyer, filed a habeas corpus petition under 28 U.S.C. § 2254 to challenge his conviction for murder, attempted murder, attempted robbery, and attempted carjacking under Case No. 48D03-9512-CF-426. Following a trial, on November 12, 1997, the Madison Circuit Court sentenced him to one hundred ten years of incarceration. This is not the first time he has brought a habeas corpus petition challenging that conviction. In *Thomas v. Carter*, 1:04-CV-1506 (S.D. Ind. dismissed Sept. 6, 2005), the court dismissed his habeas petition because his claims were non-cognizable and untimely. Pursuant to 28 U.S.C. § 2244(b), “[a] district court *must* dismiss a second or successive petition, without awaiting any response from the government, unless the court of appeals has given approval for its filing.” *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996). Because Thomas has not been authorized to file a successive petition by the Seventh Circuit Court of Appeals as required by 28 U.S.C. § 2244(b)(3)(A), the court dismisses this petition.

Pursuant to Section 2254 Habeas Corpus Rule 11, the court must consider whether to grant or deny a certificate of appealability. To obtain a certificate of appealability when a petition is dismissed on procedural grounds, the petitioner must show that reasonable jurists would find it debatable (1) whether the court was correct in its procedural ruling and (2) whether the petition states a valid claim for denial of a constitutional right. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Here, there is no basis for finding that jurists of reason would debate the court lacks jurisdiction to consider this habeas corpus petition or for encouraging Thomas to proceed further. Therefore, the court denies him a certificate of appealability.

For these reasons, the court:

(1) DISMISSES this petition as an unauthorized successive petition in violation of 28 U.S.C. § 2244(b);

(2) DENIES Ellis Thomas a certificate of appealability pursuant to Section 2254 Habeas Corpus Rule 11; and

(3) DIRECTS the clerk to close this case.

SO ORDERED on December 14, 2020

/s/JON E. DEGUILIO  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT